

#26373

STATEMENT OF LEGAL ISSUES

Rock Creek Farms raises the following issues in this Appeal:

- I. Did the Trial Court err in granting redemption rights to a stranger to the contracts for deed rather than allowing Rock Creek Farms to avail itself of its statutory right to cure its predecessors-in-interest Finnemans' default under the contracts for deeds?

The Trial Court stripped Rock Creek Farms of its right to cure its predecessors-in-interest Finnemans' default in the two contracts for deeds. The Trial Court allowed a junior lien holder, Ann Arnoldy, the right to redeem these agricultural lands from the contract for deed foreclosure. The Trial Court erred in doing so. The most relevant cases concerning this issue are:

- a) *VanGorp v. Sieff*, 2001 S.D. 45, ¶14, 624 N.W.2d 712;
- b) *Anderson v. Aesoph*, 2005 S.D. 56, ¶25, 697 NW 2d 25;
Scott v. Hetland, 51 S.D. 303, 213 N.W. 732 (1927);
and
- c) *Heikkila v. Carver*, 378 N.W.2d 214 (S.D. 1985);
Henderson, Justice (dissenting).

The most relevant statutory authority concerning this issue is:

a) SDCL § 21-50-3.

II. Did the Trial Court err in substituting Ann Arnoldy for Rock Creek Farms when she moved to be substituted for CLW?

The Trial Court substituted Ann Arnoldy for Rock Creek Farms and gave her redemption rights, even though Ann Arnoldy moved to be substituted for CLW and even though Ann Arnoldy requested that her Motion be considered post-Trial. The Trial Court did not consider Ann Arnoldy's substitution motion post-Trial. The most relevant case concerning this issue is:

a) *Ostwald v. Ostwald*, 331 N.W.2d 64 (S.D. 1983).

The most relevant statutory authority or rule of civil procedure concerning this issue is:

a) SDCL § 15-6-25(c).

III. Did the Trial Court err in denying Rock Creek Farms' Motion to Invalidate the Sheriff's Deed, which was issued without prior notice and which arose from the foreclosure of only an equitable interest in the lands?

The Trial Court denied Rock Creek Farms' Motion to Invalidate the Sheriff's Deed, even though Rock Creek Farms had no prior notice of the issuance of the Sheriff's Deed, and even though the deed arose from the foreclosure of only an equitable interest in the lands. The most relevant cases concerning this issue are:

a) *Texas American Bank/Levelland v. Morgan, et. al.*, 733 P2d 864, 865, 105 N.M. 416 (1997); and

- b) *Manufacturer's Bank & Trust Co. of St. Louis v. Lauchli*, 118 F2d 607, 610 (8th Cir 1941).

The most relevant statutory authorities concerning this issue are:

- a) SDCL § 21-47-1 et. seq.;
b) SDCL § 21-50-1 et. seq.; and
c) SDCL § 21-52-1 et. seq.

#26390

STATEMENT OF LEGAL ISSUES

L & L Partnership raises the following issues:

- I. Did the Trial Court award adequate damages to Seller, L & L Partnership, under its two contracts for Deed?

The Trial Court failed to include in its judgment all sums due to L & L according to the contract terms.

Relevant authorities:

Estate of Moncur, 2012 S.D. 17 ¶ 10

- II. Did the Trial Court improperly modify the contracts by bifurcating performance of the contracts among vendees and their claimed successors in interest?

The Trial Court's judgment imposed obligations on L & L to issue deeds to parties outside the contract and to collect damages from several potential redemptioners.

Relevant authorities:

Kroeplin Farms General Partnership v. Heartland Crop Insurance, 430 F.3d 906, 911 (8th Cir. 2005)

Hartman v. Wood, 436 N.W. 2d 854 (S.D. 1989)

SDCL 21-50-3

III. Did the Trial Court err in ordering equitable adjustment of damages and redemption rights among vendees and their claimed successors in interest?

The Trial Court shifted responsibility for payment of damages among vendees and their successors in interest without hearing evidence on the issue and changed the Seller's rights.

Relevant authorities:

Schultz v. Jibben, 513 N.W.2d 923 (S.D. 1994)

Pam Oil, Inc. v. Travex International Corp., 336 N.W.2d 672, 674 (S.D. 1982)

SDCL 21-50-3